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**Sent:** Thursday, 31 July 2003 9:17 AM  
**To:** Committee, FCA (REPS)  
**Subject:** Submission to child custody inquiry

House of Representatives Standing Committee  
on Family and Community Affairs

Submission No: ..... 228 .....

Date Received: ..... 31-7-03 .....

Secretary: .....

To :

**Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
Parliament House**

Please find enclosed my submission to the inquiry in to child custody arrangements in the event of family seperation.

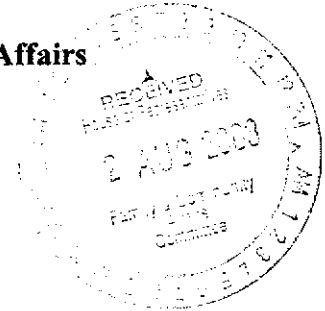
Chris Webb



- (a) given that the best interests of the child are the paramount consideration:
- (i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and
  - (ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.
- (b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.
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## Submission to Department of the House of Representatives

### Standing Committee on Family and Community Affairs Child Custody Arrangements Inquiry



(a)

(i)

#### Rebuttable Shared Custody

##### *Rebuttable shared access needs to be instituted when:*

- There is no evidence or history of child abuse or violence
- There is no history of violence or abuse between the spouses
- There is no history of risk associated either with drug, alcohol abuse or mental illnesses that may compromise the safety of the children
- The parents/homes are less than 1 hour apart

A joint parenting plan would be mandatory and be established through counsellors. It would clearly outline household rules, education expectations, cultural/religious expectations, medical needs etc for the children in both homes. There would also be an agreed process for dispute mitigation when needed.

There needs to be a process in place that enables a parent to revoke their right to shared parenting. That is, the default is that parents have 50:50 responsibility to raise their children and 50:50 access. If one parent does not feel they can deliver adequate care for whatever reason, it is that parent that has to decline. Only after this arrangement has been established should child support be determined.

If one parent wants to remove the other parent's entitlement to 50:50 access then the first step should be through counselling to ensure there is enough support for both parents or to ascertain the level of risk. There would need to be a fast-track system for any emerging patterns of abuse or violence. It should not be possible that one parent has the right to dictate to the other their level of involvement in the lives of their children.

In my personal situation, I believe that this system should be applied to all separated families, not just recently separated families. I have tried to implement a shared arrangement with my former partner for 4 years. However I do realise that this may cause distress for some children who are firmly entrenched in a routine after 10 or more years. There would need to be special consideration for families who have separated prior to any changes in the system as to how best it would address the needs of their families.

I am absolutely in favour of there being rebuttable joint custody of children post separation, but at the same time recognise that there will be situations where such an arrangement is not tenable or not desired by one or other of the parties. But what this will offer is an even playing field to start out from, not putting the onus on the father (as is the usual case) to somehow try and prove that the children need a father as much they do a mother.

In my case, my ex partner left me four years ago, and she decided what the custody arrangements would be. There have never been any court orders, and it is only now that we both agree that we need to change the arrangements, and I find that far from wanting the children to spend more time with their father, she is actually proposing an arrangement where they would spend less time with me.

Now, because she does not want child support payments to decrease we are going to end up in court as she will not agree to the children spending more time with me.

I see some opinions in the media now stating that "why should men become involved with their children only now, after separation."

Who is to say that they were not? There is no possible way that a court can really decide how much a father has had to do with the raising of his children. Some fathers like my self have been fully involved since the birth of their children and are as capable of looking after them as the mother. But how is that to be judged or proved? I am in favour of the whole system being overhauled and the family court broken down in to family mediators and counsellors who may be able to get a lot closer to a family and be able to decide these matters without it all having to go to court with all the expense and trauma involved. Australia should introduce a pre-marriage counselling programme similar to ones that are working very successfully in the US.

(ii) Each case must of course be looked at individually, in my case my parents emigrated from England so that they could be involved in the care of my children (something encouraged and welcomed by the children's mother). My mother was integral in the raising of our daughter, looking after her several days a week so that she did not have to attend kindy every day as my son did.

The only time that my parents are able to see their grand-children now is when they are in my care. As this is such a small time compared to the amount of time they are with their mother, my parents see them infrequently compared to the contact they had before.

***Grandparents should have access rights when:***

- There is proof of an existing relationship with the children prior to separation
- There is no evidence of child abuse or violence
- There is no history of risk associated either with drug, alcohol abuse or mental illnesses that may compromise the safety of the children

Possible enforceable arrangements would be contact on specific days such as birthdays, regular telephone access, and where possible weekend access (daytime) and school holiday access (overnight if applicable).

**(b) Child Support Formula**

***Linking of Payments to Access***

The current child support system does an injustice to everyone. I fully understand the need to ensure that reluctant or absent fathers do help to raise their children financially if even if they are not involved emotionally.

However, the current system is linked directly to the number of nights a child spend with their 'non resident' parent. In my case, I have come to realise in the recent legal battle, that I am 5 nights a year from being in the next 'bracket', where my child support would drop to 25% of the current payments I make (ie. From \$400/month to \$100 per month). This is why I battle for any extra time with my children.

By continuing to prescribe to this formula for determining child support payments, this only further encourages the restriction of access to the 'non-resident' parent. Case in point, my former partner is considering my offer to continue to pay the same amount of child support to provide me with 1 more night access a fortnight.

***Payments from Pre-tax salary***

The current formula is calculated on both parents' pre-tax salary. My former partner has reduced the number of hours she works to ensure I pay the maximum amount of child support based on the number of nights she allows me to have with my children. She has reduced her salary to such a level that she is now entitled to payments from Centrelink.

My former partner's earning potential is the same as mine. We both work in the public sector, at the same place of work and she is one 'band level' beneath me. As our children grow so do their needs. The children have extra curricular activities after school and yet her hours remain reduced to receive Centrelink payments.

By reducing her work hours to collect benefits my former partner's annual total income is the same as my pre-tax income. Given I am 5 nights a year away from a different child support payment bracket, it is an unfair situation that I find myself in financially given I have to pay for almost as many meals, clothes, activities etc plus private school fees from my Post-Tax income.

***Child support & Children from new Partnerships***

If my new partner & I decide to have a family, our children will be financially disadvantaged unless my new wife continues to work. This seems unfair on my '2<sup>nd</sup> family', .....